

GALLAGHER, WALKER, BIANCO & PLASTARAS

ATTORNEYS AT LAW
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GERARD M. GALLAGHER
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JOHN J. KRAMER
MICHAEL P. BIANCANELLO
ETHAN D. IRWIN
KEVIN T. McGRATH

September 11, 2007

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER, LLP
150 East 42nd Street
New York, New York 10017

Re: National Railroad v. TC Johnson, et al
Our File: 86-30785

Dear Counsel:

Enclosed herewith for service upon you please find an ANSWER TO CROSS-CLAIM dated September 10, 2007 regarding the above captioned matter.

If you should have any questions and/or comments, please do not hesitate to contact the undersigned.

Very truly yours,

GALLAGHER, WALKER, BIANCO
& PLASTARAS, ESQS.

By


ROBERT J. WALKER

RJW/ag
Enclosures

cc: LANDMAN CORSI BALLAINE & FORD P.C.
120 Broadway, 27th Floor
New York, New York 10271

SEDGWICK, DETERT, MORAN & ARNOLD, LLP
125 Broad Street, 39th Floor
New York, New York 10004-2400

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NATIONAL RAILROAD PASSENGER CORP.,

Index #: 07civ6288

Plaintiff,

-against-

**ANSWER TO
CROSS-CLAIM**

T.C. JOHNSON COMPANY, TRANSPORTATION
RESOURCES INC., MITCHELL EQUIPMENT CORPORATION,
TEREX CORPORATION, KOEHRING CRANES, INC. d/b/a TEREX
CRANES WAVERLY, and TEREX CRANES, INC.,

Defendant.

-----X

The defendant, **TEREX CORPORATION, TEREX CRANES, INC. and
KOEHRING CRANES, INC. d/b/a TEREX CRANES-WAVERLY OPERATIONS s/h/a
TEREX CORPORATION, KOEHRING CRANES, INC. d/b/a TEREX CRANES
WAVERLY and TEREX CRANES, INC.**, by their attorneys, GALLAGHER, WALKER,
BIANCO & PLASTARAS, ESQS., answering the Cross-Claim of the defendant, MITCHELL
EQUIPMENT CORPORATION herein:

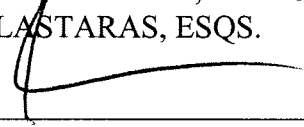
**ANSWERING EACH AND EVERY CAUSE
OF ACTION OF THE CROSS CLAIM**

FIRST: Denies each and every allegation contained in paragraph numbered
“290”, “291”, “292”, “293” of the Cross Claim insofar as the same are alleged as to this answering
defendant.

WHEREFORE, the defendant, **TEREX CORPORATION, TEREX CRANES, INC. and KOEHRING CRANES, INC. d/b/a TEREX CRANES-WAVERLY OPERATIONS s/h/a TEREX CORPORATION, KOEHRING CRANES, INC. d/b/a TEREX CRANES WAVERLY and TEREX CRANES, INC.**, demands judgment against the defendant dismissing the Cross-Claims herein, together with costs and disbursements of this action.

Dated: Mineola, New York
September 10, 2007

GALLAGHER, WALKER, BIANCO
& PLASTARAS, ESQS.

By 
ROBERT J. WALKER (RW5403)
Attorneys for Defendants
TEREX CORPORATION, TEREX CRANES, INC.
and KOEHRING CRANES, INC. d/b/a TEREX
CRANES-WAVERLY OPERATIONS s/h/a TEREX
CORPORATION, KOEHRING CRANES, INC. d/b/a
TEREX CRANES WAVERLY and TEREX
CRANES, INC.
98 Willis Avenue
Mineola, New York 11501
(516) 248-2002

TO: WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP
Attorneys for Defendant
MITCHELL EQUIPMENT CORPORATION
150 East 42nd Street
New York, New York 10017
(212) 490-3000

LANDMAN CORSI BALLAINE & FORD P.C.
Attorney for Plaintiff
120 Broadway, 27th Floor
New York, New York 10271
(212) 238-4800

SEDGWICK, DETERT, MORAN & ARNOLD, LLP
Attorneys for Defendant
TRANSPORTATION RESOURCES, INC.
125 Broad Street, 39th Floor
New York, New York 10004-2400
(212) 422-0202

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
COUNTY OF NASSAU) ss.:

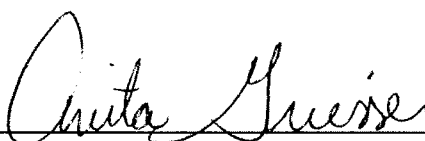
I, **ANITA GRIESSER**, being sworn, say: I am not a party to the action, am over 18 years of age and reside at Bethpage, New York.

On September 11, 2007, I served the within **ANSWER TO CROSS-CLAIM** dated September 10, 2007 by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

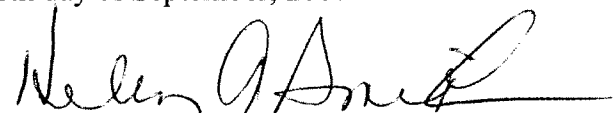
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP
150 East 42nd Street
New York, New York 10017

LANDMAN CORSI BALLAINE & FORD P.C.
120 Broadway, 27th Floor
New York, New York 10271

SEDGWICK, DETERT, MORAN & ARNOLD, LLP
125 Broad Street, 39th Floor
New York, New York 10004-2400


ANITA GRIESSER

Sworn to before me this
11th day of September, 2007


Notary Public

HELEN A. SMITH
Notary Public, State of New York
No. 01SM5038834
Qualified in Nassau County
Commission Expires Feb. 6, 2011

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a
entered in the office of
the clerk of the within named Court on

☐ that an Order of which the within is a true copy
will be presented for settlement to the
Honorable one of
the judges of the within named Court, at
on
, at

Dated: _____

**GALLAGHER, WALKER, BIANCO
& PLASTARAS**

Attorneys for

98 WILLIS AVENUE
MINEOLA, NEW YORK 11501
(516) 248-2002

Pursuant to 22 NYCRR 130-1.1, the undersigned, an
attorney admitted to practice in the courts of New York
State, certifies that, upon information and belief and
reasonable inquiry, the contentions contained in the
annexed document are not frivolous.

Dated: _____

Print signer's name

**GALLAGHER, WALKER, BIANCO
& PLASTARAS**

Attorneys for

98 WILLIS AVENUE
MINEOLA, NEW YORK 11501
(516) 248-2002

To
Attorney(s) for

INDEX NO.

FILE NO.

07 CIV 6288

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATIONAL RAILROAD PASSENGER CORP.,

Plaintiff,

-against-

T.C. JOHNSON COMPANY, TRANSPORTATION RESOURCES, INC.,
MITCHELL EQUIPMENT CORPORATION, TEREX CORPORATION, KOEHRING CRANES,
INC. d/b/a TEREX CRANES WAVERLY and TEREX CRANES, INC.,

Defendants.

ANSWER TO CROSS-CLAIM dated September 10, 2007

**GALLAGHER, WALKER, BIANCO
& PLASTARAS**

Attorneys for

98 WILLIS AVENUE
MINEOLA, NEW YORK 11501
(516) 248-2002
(516) 248-2394 (FAX)

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated.

Attorney(s) for